IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 648 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

HAKABHAI VALINGBHAI SISODIYA - Respondent(s)

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Appearance :
MR KL PANDYA AGP for Petitioner No(s).: 1.

MR DM THAKKAR for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 25/07/2005

ORAL JUDGMENT

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1.0 The petitioner State has challenged the award dated 19.06.1999 passed by the Labour Court, Junagadh, in

Reference (LCJ) No.53 of 1996, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent was working with the petitioner as a daily wager and thereafter, his services came to be terminated. Against the said action, the respondent raised an industrial dispute by way of a reference being Reference (LCJ) No.53 of 1996 before the Labour Court, Junagadh. The Labour Court, after hearing the parties, passed the impugned award by which the petitioner was directed to reinstate the respondent with continuity of service and full back wages from 31.01.1996 and all other benefits. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. The Labour Court has recorded a finding that the respondent had worked with the petitioner during the period from 05.05.1983 to 20.09.1984, thereby completing 240 days of service in the year. In my opinion, the Labour Court was completely justified in granting reinstatement with continuity in service to the respondent. I am in complete agreement with the reasonings given by the Labour Court while

granting reinstatement with continuity in service to the respondent.

3.1 However, so far as the question as regards grant of back wages is concerned, it is required to be noted that the Labour Court has not given any cogent reasons as to on what basis it has awarded back wages to the respondent. Moreover, in view of the principle laid down by the Apex Court in the case of General Manager, Haryana Roadways v. Rudhan Singh reported in J.T. 2005(6) S.C. pg.137, wherein it has been held that an order for payment of back wages should not be passed in a mechanical manner, but, a host of factors are to be taken into consideration before passing any such order, the order awarding back wages is required to be quashed and set aside.

4.0 In above view of the matter, this petition is partly allowed. The impugned award of the Labour Court is modified to the extent that the direction qua granting reinstatement with continuity in service is confirmed; and, the direction qua awarding back wages is quashed and set aside. It is clarified that the respondent shall be entitled for all benefits from the date of the

publication of the award till he is reinstated in service. The aforesaid payment to be made within a period of three months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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